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### REMARKS

Claims 1-26 are pending in the present Application. Applicants wish to thank the Examiner for recognizing and correcting the claim numbering. Claims listed above reflect renumbering by the Examiner. Claims 5, 10 and 11 have been canceled, claims 1, 9, 12, 17, 22, 23, 25, and 26 have been amended, leaving claims 1-4, 5-9, and 12-26 for consideration upon entry of the present Amendment. No new matter has been introduced by these amendments as explained below. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

#### Claim Amendments

Support for the amendments to claim 1 can be found in [0016] and [0009]. Support for the amendments to claim 9 can be found in [0009] and [0023]. Support for the amendments to claims 12, 17, 22, 23, and 26 can be found in [0009]. Support for the amendments to claim 25 can be found in [0009], [0016], [0033], [0027].

#### Claim Objections

Claim 26 is objected to for the repetition of the phrase "wherein the hydrogenated styrene content greater than or equal to about 50% by weight, based on the total weight of the hydrogenated styrene-butadiene block copolymer." Applicants have amended the claim to remove the repeated phrase.

Claim 25 is objected for being a substantial duplicate of Claim 11. Claim 25 has been amended.

#### Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 9 and 13-15 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, Claim 9 has been rejected for failing to have sufficient antecedent basis for the claimed amount of syndiotactic polystyrene. Claim 9 has been amended accordingly.

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Claim 13 has been rejected for failing to have sufficient antecedent basis for "hydrogenated styrene-butadiene block copolymer". Claim 1 has been amended to provide antecedent basis.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1-9, 16-19 and 22-24 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 5,109,068 to Yamasaki et al. (Yamasaki).

Yamasaki discloses a composition comprising:

- a styrene-based polymer having a syndiotactic configuration;
- a polyphenylene ether;
- a rubber-like elastomer; and
- a flame retarder. (Abstract)

The rubber-like elastomer is discussed beginning at Col. 5, line 51. Included among the possibilities are "a rubber in which a part or all of the butadiene portion of a styrene-butadiene block copolymer is hydrogenated" (Col. 5, lines 56-58) and ethylene-propylene copolymer rubber (Col. 6, lines 14-15). Yamasaki does not disclose use of an ethylene-octene elastomer as is instantly claimed. To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Variant Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987). Because Yamasaki does not disclose ethylene-octene elastomer as a potential rubber-like elastomer, Applicants assert that Yamasaki does not anticipate the instant claims.

Claims 1-25 are rejected under U.S.C. § 102(b) as being anticipated by the abstract of JP 07053876 to Kakegawa et al. (Kakegawa). Applicants respectfully traverse this rejection.

Kakegawa discloses a composition comprising (A) one or more of non-halogen containing thermoplastic resins selected from among polyphenylene ether, polycarbonate, polystyrene, polyolefinic and polyamide resins and thermoplastic elastomer and (B) phosphoric acid ester. Kakegawa lists a variety of explicit options for (A), none of which articulate a combination of a hydrogenated styrene-butadiene block copolymer and an ethylene-octene elastomer as is instantly claimed. Furthermore the Abstract of Kakegawa does not explicitly disclose a syndiotactic polystyrene as is instantly claimed. Because Kakegawa does not disclose all the elements of the

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pending claims, Applicants respectfully assert that the pending claims are not anticipated.

Claims 1-9, 16-19, and 24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,584,334 to Lee et al. (Lee). Applicants respectfully point out that Lee does not disclose the use of a syndiotactic polystyrene as is required in the pending claims. Accordingly Applicants respectfully assert that Lee does not anticipate the pending claims.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-26 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 5,777,028 to Okada et al. (Okada), U.S. Patent No. 6,348,540 to Sugioka et al. (Sugioka), EP 1045003 to Kogure et al. (Kogure) or JP 07331057 to Kinoshita et al. (Kinoshita), each independently in combination with EP 509506 to Matsumura et al. (Matsumura). Applicants respectfully traverse these rejections.

Okada discloses an impact resistant polystyrene composition comprising a syndiotactic polystyrene, a rubbery elastomer, and a styrene/olefin block or graft copolymer. (Abstract) The composition may optionally comprise a polyphenylene ether in an amount of 0.5 to 5.0% by weight (Col. 5, lines 1-54). Matsumura is directed to organic diphosphates.

The pending claims require at least twice the amount of poly(arylene ether) than is disclosed by Okada and Matsumura does not overcome this deficiency. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Applicants respectfully assert that a prima facie case of obviousness has not been established because neither Okada nor Matsumura disclose the claimed amount of poly(arylene ether).

Sugioka discloses, in one embodiment, a syndiotactic resin composition comprising (A) a syndiotactic styrenic polymer, (B) a rubber-like elastomer having an affinity for (A), and (E) a polymer having compatibility with or affinity for (A). (Col. 2, lines 13-26) Examples of rubber-like elastomers (B) include hydrogenated styrene-butadiene-styrene block copolymer but does not include ethylene-octene elastomers. (Col. 4, lines 26-56) Ethylene-octene elastomers are only

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explicitly described as component (G). Examples of (E) include polyphenylene ether.

In another embodiment Sugioka discloses a styrenic composition comprising (A) a syndiotactic styrenic polymer and (G) a polyolefin having a melt index of at most 25 grams/10 minutes. (Col. 2, lines 56 to 67). Examples of (G) include ethylene-octene copolymer elastomer. (Col. 6, lines 49-50) Sugioka does not disclose the inclusion of a poly(arylene ether) or a hydrogenated styrene-butadiene block copolymer in this embodiment.

Applicants respectfully assert that Sugioka does not disclose a composition that comprises a syndiotactic polystyrene, a hydrogenated styrene-butadiene block copolymer, an ethylene-octene elastomer and a poly(arylene ether) as is instantly claimed. Sugioka discloses embodiments that employ some of the same elements as are instantly claimed but Sugioka does not teach or suggest an embodiment which contains all of the claimed elements Matsumura does not remedy this deficiency.

Kogure discloses a composition comprising (A) a syndiotactic polystyrene, (B) an olefinic polymer and (C) a compound miscible with or having an affinity for component (A) and (B). (Abstract) Examples of component (B) include ethylene-octene copolymer elastomer. ([0021]) Examples of (C) include hydrogenated styrene-butadiene block copolymer. ([0022]) The composition may include several optional ingredients including polyphenylene ether ([0028]). Kogure however, only contains a very general with regard to the amount of polyphenylene ether and does not teach or suggest that the amount of polyphenylene ether is the same as is instantly claimed. A prima facie case of obviousness has not been established.

Kinoshita discloses a composition comprising (A) a polyphenylene ether resin, (B) a hydroxyl group terminated vinyl block copolymer, and (C) polyolefin resin. Exemplary polyolefin resins include polyethylene or polypropylene but Kinoshita does not disclose an ethylene-octene elastomer. Accordingly, Applicants believe a prima facie case of obviousness has not been established since Matsumura does not remedy the deficiency.

Claims 20 and 21 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Yamasaki in combination with Matsumura. Applicants respectfully assert that, as discussed above with regard the rejection under 35 U.S.C. § 102(b) over Yamasaki, Yamasaki does not

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disclose use of an ethylene-octene elastomer as is instantly claimed. Matsumura does not remedy this deficiency. Accordingly, a prima facie case of obviousness has not been established.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-1131.

Respectfully submitted,

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